IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

WP(C).No. 6030 of 2007(P)

PETITIONER:

E.X.TITUS, ETTURUTHIL HOUSE,
HARITHA ROAD, VENNALA P.O., ERNAKULAM.

BY ADV. SRI.M.TRIPTEN

RESPONDENTS:
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1. COMMISSIONER OF TRANSPORT,
COMMISSIONERATE TRANS TOWER,
VAZHUTHACADU, THIRUVANANTHAPURAM-14.

2. DEPUTY COMMISSIONER OF TRANSPORT
D.T.C. OFFICE, KAKKANADU, ERNAKULAM.

3. REGIONAL TRANSPORT OFFICER,
R.T.OFFICE, KAKKANAD, ERNAKULAM.

4. JOINT REGIONAL TRANSPORT OFFICER,
R.T.OFFICE, KAKKANAD, ERNAKULAM.

BY GOVERNMENT PLEADER SRI. K.P.PRADEEP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/11/2007 ALONG WITH WPC NO. 30506/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 6030/2007 P

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE PAGES OF RC BOOK.

EXT.P2. COPY OF THE NOTICE DT. 12/10/06 BY THE R4.

EXT.P3. COPY OF THE APPEAL NO. 25/06 DT. 5/1/07.

EXT.P4. COPY OF THE JUDGMENT IN WPC NO. 27948/06 HIGH COURT OF KERALA.

EXT.P5. COPY OF THE REVISION PETITION FILED BY THE PETITIONER BEFORE THE R1.

EXT.P6. COPY OF THE NOTICE ISSUED BY THE R3 DT. 18/1/2007.

EXT.P7. COPY OF THE RC BOOK KL-7 AS/8196 MAHINDRA CONTRACT CARRIAGE BUS.

EXT.P8. COPY OF THE DEMAND NOTICE DT. 7/3/2007.

RESPONDENT'S EXHIBITS NIL.

True copy

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ANTONY DOMINIC, J.

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W.P.(C) Nos. 6030 & 30506 OF 2007
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Dated this the 5th November, 2007

J U D G M E N T

The petitioner in W.P.(C) No. 6030/07 is the registered owner of a contract carriage vehicle bearing registration No. KL7/AS 8196 and the prayer, inter alia, is to release and test his vehicle receiving the current tax. There is a further prayer to direct the 1st respondent to dispose of Ext. P5 revision. Since the reliefs were sought on the premise that the petitioner had filed G form which was awaiting final orders, this Court passed an interim order dated 22-2-2007 directing the respondents to pass final orders on any G form that was pending in respect of the petitioner's vehicle. In pursuance to the aforesaid direction of this Court, the 1st respondent passed order dated 13-9-2007 and W.P.(C) No. 30506 of 2007 has been filed by the same petitioner challenging the aforesaid order, producing it as Ext. P6 therein.

2. The whole controversy in these cases depends

upon the liability of the petitioner for payment of motor vehicle tax and the correctness or otherwise of the claim raised by the petitioner for exemption from tax for the period from 1-7-2006 to 31-12-2006.

3. In view of the nature of the controversy that is raised the fate of these cases will depend upon the correctness of Ext. P6 order passed by the 1st respondent which is sought to be quashed in W.P.(C) No. 30506 of 2007. By this order, the claim of the petitioner for exemption of tax has been considered and the benefit of the G form has been allowed only for the period from 1-10-2006 to 31-12-2006. It is the petitioner's contention that G form was filed by him on 3-9-2006 for the quarter 1-9-2006 to 31-12-2006. However, the vehicle was seized by the AMVI and entrusted to the police during the aforesaid period and it was therefore that the benefit was restricted only for the period from 1-10-2006 to 31-10-2006. Admittedly 'G' Form was not filed in advance as required under the Kerala Motor Vehicle Taxation Act. Therefore the claim based on the G Form is plainly unsustainable. Hence, the claim for exemption for the

period from 1-11-2006 to 31-12-2006 was rejected, in my view rightly.

4. Making reference to Ext. P3 judgment in W.P.(C) No. 27948 of 2006 petitioner submits that even according to the respondents, he is entitled to exemption for the period from 1-7-2006 to 31-8-2006. A reading of Ext. P3 judgment shows that the learned Govt. Pleader who appeared for the respondent in that case was only referring to the appeal memorandum filed by the petitioner. This does not amount to any admission on their part.

5. I do not find that the petitioner is entitled to exemption for any period other than 1-10-2006 to 31-10-2006.

Writ petitions fail and are dismissed.

ANTONY DOMINIC
JUDGE

jan/-